APPENDIX

Law Offices
KIERR AND GAINSBURGH
1718 National Bank of Commerce Building
New Orleans 70112

Jackson 2-2304

April 25, 1967

John F. Davis, Esq.
Clerk
United States Supreme Court
Washington, D. C.

Dear Sir:

Re: Estates of Muth and Darr v. Atlass, et al
Nos. 709, 733

Enclosed herewith is motion for leave to file a brief as amicus curiae on behalf of the American Trial Lawyers Association, and the brief.

We shall appreciate your presenting this motion to the Court.

Copies are being sent this day to all counsel. Also, forty additional copies are being sent to you under separate cover.

Thank you.

Sincerely yours,

/s/ Raymond H. Kierr
Raymond H. Kierr

RHK/lb

cc: Edward G. Raszus, Esq.
Harold A. Liebenson, Esq.
G. Kent Yowell, Esq.
Edward B. Hayes, Esq.
Warren E. Ingersoll, Esq.

LORD, BISSELL & BROOK
135 South La Salle Street
Chicago, Illinois 60603

Area Code 312

Telephone 346-7475

Cable Address "Lowirco"

May 2, 1967

Michael Rodak, Esq., Deputy Clerk
United States Supreme Court
Washington, D. C.

Re: Muth and Darr v. Atlass
No. 1178, October Term, 1966
Our File No. 14988

Dear Mr. Rodak:

This will confirm our telephone conversation this morning in which I advised that Mr. Edward B. Hayes, counsel for the respondents, Harriet Atlass and Chicago Title & Trust Company, did not agree to the filing of a brief of amicus curiae on behalf of the American Trial Lawyers Association, prepared by Mr. Raymond H. Kierr, which was received in this office on April 28, 1967.

It is our opinion, in which we understand that you concur, that the brief is untimely, within the contemplation of Rule 42, paragraph 2, of the Rules of the Supreme Court of the United States.

This letter will, therefore, advise you that we cannot consent to the filing of this brief and will, in due course,

present our formal objection thereto; in any event, on or before the 17th of May.

Very truly yours,

Lord, Bissell & Brook
/s/ W C Ingersoll
By: Warren C. Ingersoll

WCI:mp
cc: Mr. Raymond H. Kierr
Mr. G. Kent Yowell
Mr. Edward G. Raszus

Law Offices
YOWELL AND CESSNA
38 South Dearborn Street
Suite 1210

Chicago 60603

May 9, 1967

John F. Davis, Esq.,
Clerk of the Supreme Court of the United States,
Washington, D.C. 20543

Re: Catherine Muth, Administratrix, etc.,
et al, v. Atlass, et al, etc. #1178
October Term 1966

Dear Mr. Davis:

Receipt is acknowledged of your telegram and letter, each dated May 8, 1967, advising that the petition for writ of certiorari in the above entitled case was denied.

Would you kindly advise me whether at the time the Court considered the petition it had before it the motion of the American Trial Lawyers Association to file a brief

amicus curiae. I am troubled by the copy of the letter which we received from Lord, Bissell & Brook, a copy of which is enclosed, addressed to Deputy Clerk Michael Rodak. Particularly am I troubled by the second paragraph. At the time I received that letter I could not believe that Mr. Rodak could possibly have agreed with counsel that the amicus curiae brief was untimely under Rule 42, paragraph 2 of the Rules of the Supreme Court of the United States. That rule, of course, refers to amicus curiae briefs on the merits. Rule 42, paragraph 1, refers to amicus curiae briefs in connection with petitions for certiorari and within the contemplation of that rule the brief of the amicus curiae in this case was timely, in our opinion.

I think that the Court ought to have had the opportunity of knowing about the American Trial Lawyers motion and brief at the time it passed upon the petition. The order entered May 8th, 1967 does not refer to it and it leads me to believe that the motion and brief may have been withheld inadvertently by your office because of an erroneous impression that Rule 42, paragraph 2 was involved.

I would appreciate your advice.

Very truly yours,
/s/ G. Kent Yowell

GKY/ltv
Encl.

COPY

Office of the Clerk
SUPREME COURT OF THE UNITED STATES
Washington, D.C. 20543

May 23, 1967

Raymond H. Kierr, Esquire
1718 National Bank of Commerce
Building
New Orleans, Louisiana 70112

Re: Muth, etc., et al. v. Atlass, et al., etc., No. 1178, O. T. 1966

Dear Sir:

Please advise this office as to what disposition this office is to make of the 40 printed copies of your motion for leave to file a brief as amicus curiae on behalf of the American Trial Lawyers Association. This motion was received on April 27th, which was one day after the petition was distributed to the Court.

Under Rule 42 of the Rules of this Court a motion for leave to file such a brief may be filed only if submitted a reasonable time prior to the consideration of the petition for a writ of certiorari. Part 3 of the aforementioned Rule provides that a party served with such motion may seasonably file an objection concisely stating the reasons for withholding consent. Under Rule 35(4) printed motions are held for a period of twenty days so that objection may be filed to such motions. By letter dated May 2, 1967, counsel advised that office that "we cannot consent to the filing of this brief and will, in due course, present our formal objection thereto; in any event, on or before the 17th of May." As you were thereafter advised by-

this office, the petition for writ of certiorari was denied on May 8, 1967.

Very truly yours,

John F. Davis, Clerk
By
Michael Rodak, Jr.
Deputy Clerk

MRjr:lsr
cc: Warren E. Ingersoll, Esq.
G. Kent Yowell, Esq.